



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,480	02/27/2002	Kenneth Largman	A-70543-3/RMA/LM/KRG	5067

7590 05/03/2005

FLEHR HOHBACH TEST ALBRITTON & HERBERT LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

EXAMINER

MCCARTHY, CHRISTOPHER S

ART UNIT	PAPER NUMBER
----------	--------------

2113

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,480

Applicant(s)

LARGMAN ET AL.

Examiner

Christopher S. McCarthy

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15, 20 and 22 is/are allowed.
- 6) ☒ Claim(s) 2-14 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 2A-14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goshey et al. U.S. Patent 6,205,527, as cited in prior office action, which was mailed on 8/17/2004.

2. Claims 15, 20, and 22 are allowed.

Claim Objections

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 2 has been renumbered 2A and 2B. There are two independent claims marked as number 2. For examination purposes, the examiner will refer to the first number 2 claim as 2A and the second number 2 claim as 2B.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 2B recites the limitation "second hard disk drive boot device" in full paragraph 2 of page 6 of 14 of the amended claims. There is insufficient antecedent basis for this limitation

Art Unit: 2113

in the claim. The applicant has stricken the previous “second hard disk drive” language from the former claim language, but has added the limitation to the independent claim containing this language. Upon the correction of this language, the applicant is urged not to correct claim 2B as to become a duplicate of pending claim 15.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2A-14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goshey et al. U.S. Patent 6,205,527.

As per claim 2A, Goshey teaches a method for a computer repairing itself to an operational status at any time during operation, the method comprising the computer-executed steps of: booting from a first hard disk drive boot device disposed within a main computer hardware box of the computer (column 4, line 67 – column 5, line 5); then, in response to receiving a signal indicating a need for repair of the computer during the booting or during any operating state, booting from a second hard disk drive boot device; the second hard disk drive boot device being physically present within the main computer hardware box of the computer prior to receiving the signal indicating a need for repair (column 5, lines 8-13; column 2, lines 59-63); and then repairing software on the first hard disk drive boot device while booted from the second hard disk drive boot device and selectively either: (i) maintaining operation of the

Art Unit: 2113

computer from the second boot device to restore operational status of the computer during repairing of the software on the first hard disk device, or (ii) changing to operation of the computer from the second boot device to the first boot device to restore operational status of the computer (column 2, lines 61-65), wherein the signal is generated by a user altering the state of a physical switch different from an on-off switch of the computer (column 24, line 6); at anytime prior to booting from the second hard disk drive boot device, installing software onto the second boot device and protecting the second boot device from further modification (column 12, lines 33-36). However, Goshey does not specifically disclose wherein the switch is exposed on an exterior surface of the main computer hardware box of the computer. "Official Notice" is taken that Goshey does teach wherein that his invention can be on any type of computer device (column 26, lines 50-54). It is well known in the art that a portable computer, e.g. laptop computer, has the keyboard exposed upon the exterior surface of the hardware computer component. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a portable computer with an exterior surface keyboard in the invention of Goshey. One of ordinary skill in the art would have been motivated to use a portable computer with an external surface keyboard in the invention of Goshey because a portable computer, such as a laptop computer, would fully encompass the inventive concept of Goshey of being utilized in any type of computer and would further utilize using the external surface keyboard for re-booting the system using the appropriate keys, as desired by Goshey.

As per claim 3, Goshey teaches the method of claim 2, wherein the step of repairing software comprises: automatically repairing software on the first boot device (column 16, lines 27-48).

Art Unit: 2113

As per claim 4, Goshey teaches the method of claim 3, wherein the step of automatically repairing software comprises: automatically repairing software on the first boot device without further direction from the user (column 16, lines 27-48).

As per claim 5, Goshey teaches the method of claim 3, wherein the step of automatically repairing software comprises: repairing software on the first boot device according to preset preferences (column 16, lines 27-48).

As per claim 6, Goshey teaches the method of claim 5, wherein the repairing according to preset preferences comprises: repairing according to whether to recover data; to run a virus check; to reformat the first boot device; to revert to a backup; or to run diagnostics (column 16, lines 38-43, 54-57, 62-66).

As per claim 7, Goshey teaches the method of claim 2, wherein the step of repairing software comprises: reformatting the first boot device (column 16, lines 55-57); and then copying software onto the first boot device (column 13, lines 33-43).

As per claim 8, Goshey teaches the method of claim 2, wherein the step of repairing software comprises: resetting parameters in a persistent memory; and then copying software onto the first boot device (column 13, lines 33-45).

As per claim 9, Goshey teaches the method of claim 2, further comprising the step of: directing a user to re-boot from the first boot device (column 13, lines 42-45).

As per claim 10, Goshey teaches the method of claim 2, wherein before the step of booting from the second boot device, the following step is performed: installing software onto the second boot device (column 10, lines 52-58; column 11, lines 5-51).

As per claim 11, Goshey teaches the method of claim 10, wherein the step of installing software onto the second boot device comprises one method from the following set of methods: a) installing software onto the second boot device; b. copying installed software onto the second boot device; c) copying installation software onto the second boot device; and d) writing onto the second boot device a version of an operating environment running as a result of the boot from the first boot device (column 10, lines 52-58; column 11, lines 5-51).

As per claim 12, Goshey teaches the method of claim 11, wherein the version of the operating environment comprises a template of an operating environment (column 11, lines 50-51).

As per claim 13, Goshey teaches the method of claim 10, wherein after the step of installing and before the step of booting from the second boot device, the following step is performed: updating the software installed onto the second boot device (column 12, lines 14-40).

As per claim 14, Goshey teaches the method of claim 10, wherein after the step of installing and before the step of booting from the second boot device, the following step is performed: protecting the second boot device from further modification (column 12, lines 33-36).

As per claim 16, Goshey teaches the method of claim 2, wherein before the step of repairing software the following step is performed: offering a user a choice of thoroughness of repair (column 9, lines 31-46).

As per claim 17, Goshey teaches the method of claim 2, wherein before the step of booting from the second boot device, the following step is performed: automatically monitoring

Art Unit: 2113

an operating environment running as a result of the booting from the first boot device (column 10, lines 12-23).

As per claim 18, Goshey teaches the method of claim 17, further comprising the step of detecting an undesirable change in the operating environment; and generating the signal indicating a need for repair in response to the detection (column 10, lines 12-23).

As per claim 19, Goshey teaches the method of claim 2, wherein before the step of booting from the second boot device, the following step is performed: automatically searching for boot devices (column 9, lines 54-65).

Allowable Subject Matter

8. Claims 15, 20, and 22 are allowed.

9. The following is an examiner's statement of reasons for allowance: When read as a whole, claim 22 is allowable with respect to the limitation of a bootable second hard disk drive boot device, the bootable second hard disk drive having software installed onto the second boot device at anytime prior to booting from the second hard disk drive boot device that is protected from further modification by at least one of (a) switching the second boot device to a state of unavailability; or (b) switching the second boot device to a read-only state;.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

10. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. McCarthy whose telephone number is (571)272-3651. The examiner can normally be reached on M-F, 9 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2113

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

csM


ROBERT BEAUSOLIEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100